



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TYRONE H. MASSEY,

Plaintiff,

- against -

CAPTAIN BOLANOS, et al.,

Defendants.
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20-CV-8592 (LTS) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

Plaintiff commenced this action on October 14, 2020. Defendants answered on February 1, 2021. On March 1, 2021, Defendants proposed filing a motion to dismiss pursuant to Fed. R. Civ. P. 12(c). The Court stayed the case on April 20, 2021, due to Plaintiff's indication that he was to have a competency hearing in his criminal matter. On May 19, 2021, the Court denied Defendants' request to file a motion to dismiss without prejudice to renewal after the stay is lifted. On May 18, 2021, Defendants informed the Court that an evaluation of Plaintiff in his criminal proceeding found him to be competent. Plaintiff's correspondence with the Court also indicates that he is rational and capable of prosecuting his claims, and understands the legal concepts involved. Plaintiff has expressed being overwhelmed, which is not surprising in as much as he has filed more than ten separate actions based on his conditions of or treatment during confinement. Plaintiff has requested appointment of pro bono counsel, but the Court cannot at this time say that his claims are "likely to be of substance" as required by *Hodge v. Police Officers*, 802 F.2d 58, 61 (2d Cir. 1986). Accordingly, (1) the stay of this case is LIFTED; (2) Plaintiff's request for pro bono counsel is denied without prejudice to renewal in the

event any of his claims survive a motion to dismiss; (3) based on Plaintiff's confirmed representation that he lost his legal papers to a fire incident, defendants shall, by **June 25, 2021**, send to Plaintiff all pleadings and court orders issued in this case to date; (4) by **July 15, 2021**, Defendants shall file their motion to dismiss; Plaintiff shall file any opposition by **September 3, 2021**; Defendants shall file their reply, if any, by **September 24, 2021**; (5) discovery shall be stayed pending resolution of the motion to dismiss.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', written over a horizontal line.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: June 11, 2021
New York, New York

Copies transmitted this date to all counsel of record. The Clerk of Court is respectfully requested to mail a copy of this order to the pro se Plaintiff.